Supreme Court, U.S.
FILED

94 737 SEP 30 1994

No. _____

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1994

REV. JAMES O'LEARY, MINISTER OF DIOS
LA IGLESIA DE LAITIES, DE SACRED HOLY
SACRAMENTO - SACRAMENT.

PETITIONER

VS.

THE COUNTY OF SACRAMENTO - SACRAMENT

ET. AL. RESPONDENT

PETITION FOR EXTRAORDINARY WRIT
FROM THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT.

PETITION FOR EXTRAORDANARY WRIT BY
JAMES O'LEARY (REV.)
P.O. BOX 206, BROADRICK, CA. 95605
646-6030

24

QUESTION PRESENTED

THE PLAINTIFF ALEGES THE DEFENDANTS HAVE VIOLATED "BOTH" THE ESTABLISHMENT CLAUSE AND THE FREE EEXERCISE CLAUSE OF THE UNITED STATES CONSTITUTION, FIRST AMENDMENT. - 28 U.S.C.A. - SECTION 1331

THE SACRED HOLY BIBLE, WEBSTERS AND CASELLES DICTIONARY (QUOTE) DEFINES THE NAME "SACRAMENTO - SACRAMENT" AS ONE AND THE SAME. MEANING - " A SYMBOL OR SIGN OF THE GRACE OF GOD." - TO BE ORDAINED BY "JESUS CHRIST" IN CERTAIN RELIGIOUS RITES AND ACTS OF CERTAIN "CHRISTIAN RELIGIONS. NOT ALL RELIGIONS. (UNQUOTE)

THE DEFENDANTS BY MISUSING THE "HOLY SACRED NAME" "SACRAMENTO - SACRAMENT" ON THIER "SECULAR" MUNICIPAL SEALS ARE SHOWING "PREFERANCE" FOR CHRISTIANITY. UNCONSTITUTIONAL?

AND ALL OTHER "RELIGIONS" THAT USE HOLY SACRED SACRAMENTO - SACRAMENT

QUESTION PRESENTED

ISN'T THE COUNTY OF SACRAMENTO - SACRAMENT IN VIOLATION OF BOTH THE ESTABLISHED CLAUSE AND THE FREE EXERCISE CLAUSE OF THE UNITED STATES CONSTITUTION BY MISUSING AND INFEREING, THE SACRED HOLY SACRAMENTO - SACRAMENT NAME?

THE SACRED HOLY BIBLE, WEBSTER'S AND CASSELLS SPANISH DICTIONARY DEFINES THE "NAME" SACRAMENTO - SACRAMENT (ONE AND THE SAME) AS MEANING (QUOTE) A SYMBOL, ACT, RITE OR HOLY SACRED SIGN OF THE GRACE OF "GOD." IT MEANS TO BE "ORDAINED" BY "JESUS CHRIST" IN CERTAIN HOLY RELIGOUS RITES AND ACTS OF CERTAIN CHRISTIAN RELIGION RITES AND ACTS ONLY AND NOT ALL RELIGIONS. (UNQUOTE)

TO WHAT SACRED HOLY SACRAMENT0 - SACRAMENT IS THE SECULAR COUNTY OF SACRAMENTO "REFERING" TO BY MISUSING THE SACRED "HOLY" NAME OF SACRAMENTO - SACRAMENT ?

IS IT A "HOLY COUNTY" ? HAS IT EVER BEEN "ORDAINED" BY JESUS CHRIST OR ANY OTHER RELIGION? CAN ANY SECULAR COUNTY BE ORDAINED OR INFERED AS A SACRED HOLY CHRISTIAN RELIGION?

ISN'T THIS UNGODLY AND UNCONSTITUTIONAL?

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PARTIES INVOLVED

COUNTY OF SACRAMENTO ET. AL.
EACH ENJOINING DEFENDANTS, EACH OF THEM , THIER AGENTS, SERVANTS, EMPLOYEES AND ALL PERSONS ACTING UNDER, OR INCONCERT WITH THE COUNTY OF SACRAMENTO.

DEFENDANTS

DIOS LA IGLESIA DE LAITIES
DE SACRED HOLY DE SACRAMENTO
REV. JAMES O'LEARY
P.O. BOX 206
BROADRICK, CA. 95605

PLAINTIFFS

TABLE OF AUTHORITIES

CASES

HARRIS VS. CITY OF ZION, 927 F. 2D 1401 (7TH. CIR. 1991) THE 7TH CIR. COURT OF APPEALS RULED - SECTARIAN IMAGERY HAS "NO" PLACE ON MUNICIPAL SEALS. (QUOTE)

HAL ROACH STUDIOUS, INC. VS. RICHARD FEINER & CO. (9TH CIR. 1990) 896 F. 2 D 1542, 1555 N. 19 THE COMPLAINT IS CONSTRUED IN THE LIGHT MOST FAVARABLE TO THE PLAINTIFF.

LEMON VS. KUTZMAN (1971) 403 U.S. 602, 91 S. CT. 2105 (1) MUST HAVE A SECULAR PURPOSE, (SACRAMENTO - SACRAMENT IS A SACRED HOLY RELIGION) (2) MUST NEITHER ADVANCE NOR INHIBIT RELIGION IN ITS PRINCIPAL OR PRIMARY EFFECT, (SACRAMENTO - SACRAMENT INFERES CHRISTIANITY AND "ORDAINED BY JESUS CHRIST.") (UNCONSTITUTIONAL)
(3) MUST NOT FOSTER AN EXCESSIVE ENTANGLEMENT WITH RELIGION. (UNLAWFUL USE OF "HOLY NAME" IS ENTANGLEMENT IN ITS SELF) (UNCONSTITUTIONAL)

JURISDICTION

FEDIRAL QUESTION - ESTAMBLISHMENT OF RELIGION CLAUSE OF THE FIRST AMENDMENT. 28 USCASEC. 1331

FREE EXERCISE CLAUSE OF THE FIRST AMENDMENT THE PLANTIFF ALLEGES THAT THE VERY ORDER OF THE HONARABLE JUDGE LAWRENCE K. KARLTON (CHIEF JUDGE 9TH. D) ON MARCH 10/89 WAS IN AND BY ITSELF A VIOLATION OF THE PLAINTIFFS "FREE EXERCISE CLAUSE" BECAUSE IT IS IN AND BY ITSELF A "RELIGIOUS QUESTION" AND NOT WITHIN THE JURISDICTION OF THE HONARABLE COURT. THE ORDER REQUIRES FIRST A BOND OF $1450 AND THE LATEST ORDER REQUIRES A BOND OF $5000. THIS IS UNCONSTITUTIONAL OF THE PLAINTIFFS "FREE EXERCISE" OF RELIGIOUS BELIEFS. ESTABLISHMENT OF RELIGION - THE MERE USE OF THE NAME AND SYMBOL OF THE SACRAMENTO - SACRED HOLY SACRAMENT (ONE AND THE SAME) INFERES KTHAT IT IS OF THE SACRED HOLY RELIGION. IS THIS SEPARATION OF CHURCH AND STATE IN THE CONSTITUTION?? THE SECULAR " COUNTY OF SACRAMENTO - SACRAMENT IS NOT A" HOLY CHRISTIAN COUNTY AND AS A BRANCH OF GOVRONMENT CAN NEVER BE.

STATUT INVOLVED

THE PLAINTIFF ALLEGES THIS CASE INVOLVES A FEDERAL QUESTION OF EXCEPTIONAL IMPORTANCE TO THE UNITED STATES CONSTITUTION AND THE PLAINTIFFS SCARED HOLY RELIGIOUS CHRISTIAN RELIGION. (ORDAINED BY JESUS CHRIST)
THE UNITED STATES DISTRICT COURT (EASTERN CALIFORNIA) AND THE UNITED STATES COURT OF APPELAS (9TH CIRCUIT) "OPINION" DIRECTLY CONFLICKTS WITH A EXCISTING "OPINION" BY THE UNITED STATES COURT OF APPEALS (7) CIRCUIT COURT, AND "SUBSTANTIALY" AFFECTS A RULE OF NATIONAL UNIFORMITY. HARRIS VS. CITY OF ZION - 927 F. 2 D. 1401 7TH CIRCUIT COURT OF APPEALS RULED - SECTARIAN IMAGERY HAS NO PLACE ON MUNICIPAL SYMBOL OR SEALS. THE CONSTITUTION STATES THERE SHOULD BE "SEPARATION OF CHURCH AND STATE."

STATEMENT OF THE CASE

A. SUBJECT MATTER JURISDICTION IN THE DISTRICT COURT WAS BASED UPON 28 U.S.C. FIRST AMENDMENT. SECTION #1331 (ESTABLISHMENT OF RELIGION) FREE EXERCISE CLAUSE OF THE FIRST AMENDMENT. THE PLAINTIFF ALLEGIS THE DEFENDANTS COMMITED "CONSPIRACY" TO DEPRIVE THE PLAINTIFF OF EQUAL PROTECTION OF THE LAWS, OR THE GRANTING OF EQUAL PRIVALAGES AND IMMUNITIES UNDER THE LAW. (14TH AMENDMENT - SECTION 1 - EQUAL PROTECTION) THE PLAINTIFF ALLEGES THERE IS A CONFILCT BETWEEN TWO DIFFERENT FEDERAL COURTS OF APPEALS. THE NINTH CIRCUIT DISAGREES WITH THE SEVENTH CIRCUIT, BECAUSE OF (QUOTE) SECTARIAN IMAGERY HAS "NO PLACE ON MUNICIPAL SEALS." (UNQUOTE) HARRIS VS. CITY OF ZION, 927 F. 2 D. 1401 7TH CIR. 1991

CONCLUSION

A SECULAR COUNTY GOVRONMENT MAY HAVE A HISTORY OF A SACRED HOL RELIGION, EVEN CERTAIN FAITH OR NO RELIGION AT ALL. BUT A SECULAR COMMUNITY CANNOT TAKE THE NAME OF ACTS OR RITES OF CERTAIN RELIGIONS AND INFERE THAT IT IS OF THAT CERTAIN RELIGION.

SACRAMENTO - SACRAMENT (ONE AND THE SAME BY "GODS" WILL) IS A SACRED HOLY RITE (CHRISTIAN) OF THE ROMAN CATHOLIC CHURCH AND A FEW "CERTAIN" OTHERS. (NOT ALL)

WHEN THE SECULAR COUNTY OF SACRAMENTO - SACRAMENT USES THE NAME AS ITS SYMBOL (SEAL) IT IS SECTARIAN RELIGIOUS IMAGERY AND AGAINST ALL OTHER RELIGIONS OR NONRELIGION?
THE PLAINTIOFF ALLEGES THIS CASE INVOLVESA FEDERAL QUESTION OF EXCEPTIONAL IMPORTANCE TO THE UNITED STATES CONSTITUTION AND THE PLAINIFFS SACRED HOLY RELIGIOUS BELIEFS. (ORDAINEBY JESUS CHRIST) THE UNITED STATES DISTRICT COURT (EASTERN CALIFORNIA) AND THE UNITED STATES COURT OF APPEALS (9TH) "OPINION" DIRECTLY CONFLICTS WITH A OPINION BY THE UNITED STATES COURT OF APPEALS (7TH) CIRCUT AND SUBSTANTIALLY AFFECTS A "RULE" OF NATIONAL UNIFORMATY - HARRIS VS. CITY OF ZION AND ROLLINGMEADOWS ILL. 927 F. 2 D. 1401 7TH CIR. 91.

FEDERAL QUESTION

ESTABLISHAMENT OF RELIGION CLAUSE OF THE FIRST AMENDMENT OF THE CONSTITUTION BY DEFENDANTS FIRST AMENDMENT 28 U.S.C.A. SECTION 1331

FREE EXERCISE CLAUSE OF THE FIRST AMENDMENT OF THE CONSTITUTION. THE PLAINTIFF ALLEGES THE COURT ORDER OF HONARABLE LAWRENCE K. KARLTON WAS BY ITSELF A VIOLATION OF THE PLAINTIFFS "FREE EXECISE OF RELIGION."

THE PLAINTIFF ALLEGES THE USE OF THE HOLY SACRED NAME "SACRAMENTO - SACRAMENT" (ONE AND THE SAME) BY DEFENDANTS IS MISSLEADING (SHOWING) PREFERANCE FOR CHRISTIANITY AND TO BE "ORDAINED JESUS" (UNCONSTITUTIONAL)

CONCLUSION
FEDERAL QUESTION

THE FIRST AMENDMENT OF THE CONSTITUTION 28 USCA - ESTABLISHMENT OF RELIGOUS CLAUSE - IN USING THE SACRED HOLY NAME OF SACRAMENTO - SACRAMENT, THE COUNTY OF SACRAMENTO IS INFEREING THAT IT IS A "HOLY" COUNTY AND HAS BEEN "ORDAINED" BY JESUS CHRIST. SACRAMENTO SACRAMENT MEANS TO BE OF THE SACRED HOLY RELIGION AND BE ORDAINED IN THE SACRED HOLY SACRAMENTS. (UNCONSTITUTIONAL)

THE COURTS HAVE GRANTED FULL IMMUNITY FROM THE "LAW OF THE LAND" TO THE DEFENDANTS BECAUSE THEY CALIM THEY CAN USE THE "LORDS" NAME IN VAIN BECAUSE OF TRADITION. "GOD AND JESUS" HAS BEEN INTO TRADITIONALISM MUCH LONGER THAN THE COUNTY OF SACRAMENTO. THE COUNTY OF SACRAMENTO HAS BEEN INTO SECTARIANISM SINCE ITS CREATION. CAN THEY HAVE IT BOTH WAYS.

THE PLAINTIFF PRAYS THIS HONARABLE COURT TO STOP THE COUNTY FROM MISUSING THE "LORDS NAME IN VAIN" AND RETURN TO THE "PRINCIPALITY" OF "GOD AND JESUS" BECAUSE NO GOVRONMENT NOT BUILT ON THE "PRINCIPALITY OF GOD AND JESUS" WILL NEVER SUCCEED.

"GOD BLESS ALL"

James O Leary

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JAMES O'LEARY REV.
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THE MISUSE, MUTILATION AND DISTORTION BY THE COUNTY OF "SACRAMENTO" USING A SACRED HOLY SACRAMENT - SACRAMENTO NAME FOR A SECULAR COUNTY GOVERNMENT IS UNCONSTITUTIONAL AND VIOLATES THE RIGHT OF PRIVACY OF THE PLAINTIFFS IN THIER SACRED HOLY CHRISTIAN RELIGION BY MISREPRESENTANTION OF THIER SACRED HOLY CHRISTIAN RELIGION. THE SECULAR COUNTY OF SACRAMENTO - SACRAMENT REPRESENTS UNCONSTITUTIONAL ENDORSMENTS OF PARTICULAR RELIGOUS SACRED HOLY FAITH OF CHRISTIANITY AND THE ROMAN CATHOLIC CHURCH. DEFENDANTS USE OF THE SACRED HOLY NAME "SACRAMENTO" IS A SECTARIAN DISPLAY AND ENDORSES AND PROMOTS THE SACRED HOLY CHRISTIAN FAITH.

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"CONCLUSION"

THIS ACTION IS PROPERLY MAINTAINED AS A CLASS ACTION IN AS MUCH AS THE QUESTIONS OF THE LAW AND FACT COMMON TO MEMBERS OF THE CLASS PREDOMINATE OVER ANY QUESTIONS AFFECTING ONLY INDIVIDUAL MEMBERS, AND A CLASS ACTION IS SUPERIOR TO OTHER AVAILABLE METHODS FOR THE FAIR AND EFFICENT ADJUDICATION OF THE CONTROVERCY. IN SUPPORT OF FOREGOING ALLEGATIONS, PLAINTIFF SHOWS AS FOLLOWS:
THE CLAIMS OF PLAINTIFF, WHO IS A REPRESENTATIVE OF THE CLASS HEREIN ARE TYPICAL OF THE CLAIMS OF THE CLASS, IN THAT THE CLAIMS OF ALL MEMBERS OF THE CLASS, INCLUDING PLAINTIFF, DEPEND ON A SHOWING OF FACTS AND OMMISIONS OF DEFENANTS GIVING RISE TO THE RIGHT OF PLAINTIFF TO THE RELIEF SOUGHT HEREIN. THERE IS NO CONFLICT AS BETWEEN ANY INDIVIDUAL NAMED PLAINTIFF AND OTHER MEMBERS OF THE CLASS WITH RESPECT TO THIS ACTION, OR WITH RESPECT TO THE CLAIMS FOR RELIEF HEREIN SET FORTH.
THE PLAINTIFF ALLESES THIS CASE INVOLVES A CLASS ACTION OF EXCEPTIONAL IMPORTANCE TO THE UNITED STATES CONTITUTION AND THE PALINTIFFS SACRED HOLY CHRISTIAN RELIGION. (SACRAMENTO - SACRAMENT - TO BE ORDAINED BY "JESUS CHRIST") AND NOT THE SECULAR COUNTY OF SACRAMENTO - SACRAMENT (THE ONE AND THE SAME ?)
PLAINTIFFD AND THE CLASS IT REPRESENTS HAVE BEEN HARRASSED UNDER THE DIRECTION OF THE DEFENDANT AND DEPRIVED OF THIER CONSTITUIONAL RIGHTS OF FREDOM OF MOVEMENT. RIGHT TO ESTABLISH A CHURCH, PROFESSION AND CONDUCT A BUSINESS IN THE COUNTY OF SACRAMENTO. THE PLAINTIFFS PRAY FOR A DECLARITORY JUDGEMENT THAT THE ENFORCMENT ACTIVITIES OF THE DEFENDANTS ARE IN VIOLATION OF THE SPIRIT AND INTENT OF THE LAW. FOR AN AWARD IN AN AMOUNT WHICH THE COURT DETERMINS IS SUFFICENT TO PUNISH AND MAKE AN EXAMPLE OF DEFENDANTS . HAVE THE PLAINTIFFS LOST THIER CITIZENSHIP BECAUSE THEY HAVE BEEN UNLAWFULLY DECLAIRED "VEXATIOUS LITIGANTS" ? THIS IS NOT REASON ENOUGH FOR THE DEFENDANTS TO TREAT THE PLAINTIFFS AS SECOND CLASS CITIZENS AND DEPRIVE THEM OF THIER CONSTITUTIONAL RIGHTS. THE PLAINTIFFS PRAY FOR A DECLARATORY AND A PRELIMINARY INJUCTION BECAUSE THE OVERT ACTIVITIES OF THE DEFENDANTS ARE IN VIOLATION OF 42 USC 1983, 1985 AND 1986.

APPENDIX

JUDGMENT

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NO. 93-15767
CT/AG#: CV-91-01246-EJG

JAMES O'LEARY
PLAINTIFF - APPELLANT

V.

COUNTY OF SACRAMENTO
DEFENDANT - APPELLEE

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA (SACRAMENTO)

THIS CAUSE CAME TO BE HEARD ON THE TRANSCRIPT OF THE RECORD FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA (SACRAMENTO) AND WAS DULLY SUBMITTED.

ONCONSIDERATION WHEREOF, IT IS NOW HERE ORDERED AND ADJUDGED BY THIS COURT, THAT THE JUDGEMENT OF THE SAID DISTRICT COURT IN THIS CASE BE, AND HEREBY AFFIRMED.

FILED MARCH 28, 1994

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JAMES O'LEARY
PLAINTIFF - APPELLANT

V.

COUNTY OF SACRAMENTO
DEFENDANT - APPELLEE

NO. 93-15767
D.C. NO, CV-91-01246-EJG

MEMORANDUM*

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA. EDWARD J. GARCIA, DISTRICT JUDGE, PRESIDING.

SUBMITTED FEBRUARY 22, 1994**

BEFORE: SCHROEDER, CANBY AND WIGGINS, CIRCUIT JUDGES.

ON REMAND FROM THIS COURT, JAMES O'LEARY APPEALS PRO SE THE DISTRICT COURT'S DISMISSAL OF HIS ACTION PURSUANT TO FE. R. CIV. O. 12(b) (1) AND 12(b) (5). O'LEARY ALLEGED THAT THE COUNTY SEAL OF THE SACRAMENTO VIOLATES THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT BECAUSE IT CONTAINS THE WORD "SACRAMENT." 1/ WE HAVE

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* THIS DISPOSITION IS NOT APPROPRIATE FOR PUBLICATION AND MAY NOT BE CITED TO OR BY THE COURTS OF THIS CIRCUIT EXCEPT AS PROVIDED BY 9TH CIR. R. 36-3

** THE PANAL UNANIMOUSLY FINDS THIS CASE SUITABLE FOR DECISION WITHOUT VERBAL ARGUMENT. FED. R. APP. P. 34(A); 9TH CIR. R. 34-4 ACCORDINGLY, O'LEARY'S REQUEST FOR ORAL ARGUMENT IS DENIED.

1/ THE DISTRICT COURT INITIALLY DISSMISSED O'LEARY'S ACTION FOR FAILURE TO STATE A CLAIM PURSUANT TO RULE 12(B) (6). THE COURT ADDRESSED THE MERITS OF O'LEARY'S CONSTITUTIONAL CHALLANGE TO COUNTIES USE OF THE NAME SACRAMENTO IN ITS OFFICIAL SEAL. ON APPEAL, THIS COURT REVERSED THE DISTRICT COURT'S DECISION AND REMANDED THE CASE, HOLDING THE DISTRIC COURT ERRED BY (CONTINUED NEXT PAGE)

JURISDICTION UNDER 28 U.S.C. 1291, AND WE AFFIRM. SPECIFICALLY, IN HIS AMENDED COMPLAINT, O'LEARY ALLEGED THAT THE COUNTY OF SACRAMENTO ("COUNTY") USE OF THE SACRED HOLY NAME (SACRAMENTO) ON THIER COUNTY SEALS HAVE CAUSED HIM TO SUFFER ANGER, SHAME, FRIGHT, HUMILIATION, MENTAL ANGUISH, EMOTIONAL DISTRESS AND PHYSICAL DISTRESS, "FORCING HIM TO GO" 'UNDERGROUND' WITH HIS CHRISTIAN RELIGION." THE DISTRICT COURT FOUND THAT O'LEARY LACKED STANDING TO ASSERT HIS CLAIM BECAUSE HE FAILED TO DEMONSTRATE (1) ANY DIRECTION OR PERSONAL CONTACT WITH COUNTY'S OFFICAIL SEAL," OR (2) HOW HE IS PERSONALLY AFFECTED BY THE COUNTY'S USE OF THE NAME "SACRAMENTO."

WE REVEIWED DE NOVO THE DISTRICT COURTS HOLDING REGARDING STANDING. RESOURCES LTD. V. ROBERTSON, 8 F. 3D 1394, 1397 (9TH CIR. 1993)
"THE FEDERAL COURT LACKS POWER TO MAKE DECISION UNLESS THE PLAITIFF HAS SUFFERED AN INJURY IN FACT, TRACEABLE TO THE CALLANGED ACTION, AND LIKLY TO BE REDRESSED BY A FAVORABLE DECISION. SNAKE RIVER FARMERS' ASSOC. V. DEPARTMENT OF LABOR, 9 F. 3d 792, 795 (9TH CIR. 1993) THE PARTY SEEKING JURISDICTION BEARS THE BURDEN OF ALLEGING FACTS SUFFICENT TO ESTABLISH STANDING. FW/PBS. INC. V. CITY OF DALLAS, 493 U.S. 215, 231 (1990). "(T)HE IRREDUCIBLE CONSTITUTIONAL MINIMUM OF STANDING CONTAINS THREE ELEMENTS:" (1) INJURY IN FACT; (2) CAUSATION; AND (3) REDRESSABILITY. LUJAN V. DEFENDERS OF

(CONTINUED FROM PREVIOUS PAGE)
DECIDED CONSTITUTIONAL ISSUES BEFORE DETERMINING WETHER (1) O'LEARY HAD STANDING TO RAISE HIS CLAIM, AND (2) THE DISTRICT COURT HAD JUISDICTION OVER THE COUNTY IN LIGHT OF THE ALLEGED INSUFFICIENT SERVICE OF PROCESS.

WILDLIFE, 112 S, CT. 2130, 2136 (1992). AN INJURY IN FACT IS "AN INVASION OF A LEGALLY-PROTECTED INTEREST WHICH IS (A) CONCRETE AND PARTICULARIZED, AND (B) ACTUAL OR IMMINENT, NOT COJECTURAL OR HYPOTHETICAL. " ID. (QUOTATIONS OMMITED) CAUSATIONS REQUIRES THAT THE INJURY BE "FAIRLY TRACEABLE TO THE CHALLANGED ACTION OF THE DEFENDANT, AND NOT AS A RESULT OF THE INDEPENDANT ACTION OF SOME THIRD PARTY NOT BEFORE THE COURT." ID. (QUOTATION OMMITED)

HERE, ALTHOUGH O'LEARY ALLEGES THAT HE HAS SUFFERED INJURIES DUE TO THE COUNTY'S USE OF THE NAME "SACRAMENTO" HE FAILS TO ALLEGE ANY FACTS DEMONSTRATING CAUSATION. O'LEARY DOES NOT ALLEGE ANY SPECIFICE CONTACT WITYH THE COUNTY'S SEAL OR PRECISLY HOW THE COUNTY'S SEAL HAS CASUED HIM TO GO 'UNDERGROUND' THIS THE PRACTICE OF HIS RELIGION OR TO SUFFER PHYSICAL AND EMOTIONAL DISTRESS. SEE ID. ; SNAKE RIVER FARMERS, 9 F 3d at 795-98. ACCORDINGLY, THE DISTRICT COURT DID NOT ERR BY DISMISSING O'LEARY'S ACTION FOR LACK OF STANDING. /2 AFFIRMED

(JULY 28, 1994)

2/ because we hold that the distrcit court properly dismissed o'leary's action for lack of standing , we do not address the court's dismissal on the alternative ground of insufficiency of service of process.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

(FILED JULY 20, 1994. CATHY A. CATTRESON, CLERK, U.S. COURT OF APPEALS)

JAMES O'LEARY	NO. 93-15767
VS.	D.C. NO. CV-91-01246-EJG
COUNTY OF	EASTERN CALIFORNIA
SACRAMENTO	(SACRAMENTO)
	ORDER

BEFORE: SCHROEDER, CANBY AND WIGGINS
CURCUIT JUDGES

THE PANEL HAS VOTED TO DENY APPELLANT'S PETITION FOR REHEARING AND TO REJECT THE SUGGESTION FOR A REHEARING EN BANC. THE FULL COURT HAS BEEN ADVISED OF THE SEGGESTION FOR REHAERING EN BANC AND NO ACTIVE JUDGE HAS REQUESTED A VOTE ON WHETER TO REHEAR THE MATTER EN BANC. FED. R. APP. P. 35. THE PETITION FOR REHEARING IS DENIED AND SUGGESTION FOR REHAERING EN BANC IS REJECTED.

THE COURT FINDS THAT THE COMPLAINT CONCERNING THE NAME "SACRAMENTO" FILED BY THE PLAINTIFFS CONSTITUTES AN ATTEMPT TO RELITIGATE THE VALIDITY OF THE COURTS FINAL DETERMIONATION IN PRIOR CASES. ACCORDINGLY, THE COURT HOLDS THAT AS FAR AS THAT SUBJECT MATTER IS CONCERNED, PLAINTIFFS ARE VEXATIOUS LITIGANTS AND MAKES THE FOLLOWING ORDER:

BEFORE FILING ANY DOCUMENTS OR CASES CONCERNING A FIRST AMENDMENT CHALLANGE TO THE NAME "SACRAMENTO," ANY OF THE ABOVE MENTIONED PLAINTIFFS SHALL GIVE SECURITY BY POSTING A BOND IN THE AMOUNT OF ONE THOUSAND FOUR HUNDRED FIFTY DOLLARS ($1450), TO BE USED FOR PAYMENT OF SUCH COSTS AND DAMAGES AS MAY BE INCURRED OR SUFFERED BY ANY PARTY AS A RESULT OF FURTHER DOCUMENTS PRESENTED TO THE COURT BY PLAINIFFS.

PLAINTIFFS ARE WARNED THAT FURTHER ACTIONS ON THEIR PART REFLECTING DISRESPECT FOR THE COURT'S PROCESS AND ORDERS MAY CONSTITUTE CONTEMPT. THE COURT WILL NOT HESITATE TO ACT AS NESSESARY TO COMPEL OBEDIENCE TO ITS ORDERS AND TO VINDICAQTE ITS AUTHORITY.

IT IS SO ORDERED

DATED MARCH 10, 1989

/S/ LAWRENCE K. KARLTON
LAWRENCE K. KARLTON,
CHIEF JUDGE
UNITED STATES
DISTRICT COURT

(ARTICAL, GOVERNING MAGAZINE)

COURT SEALS THE FATE OF ONE TOWN'S SYMBOL
BY JEAN PONESSIA

REIGION CAN BE A PART OF A TOWN'S HISTORY, COMMINITY OR EVEN ITS NAME, BUT IT NEEDS TO STAY OFF THE CITY SEAL. THAT'S WHAT A FEDERAL APPEALS COURT RULED WHEN IT DECLARED UNCONSTITUTIONAL THE SEALS OF TWO NORTHEASTERN ILLINOIS TOWNS. "SECTARINA RELIGIOUS IMAGRY SIMPLY HAS NO PLACE ON MUNICIPAL SEALS." A 7TH U.S. CIRCUIT COURT OF APPEALS SAID.
IN THE CASE OF ZION ILL. A TOWN OF 19,000, THE SEAL INCLUDES A CROSS AND A BANNER THAT READS "GOD REIGNS". THE SEAL WAS USED BY A RELIGOUS COMMUNITY THAT FOUNDED THE TOWN IN THE 1800'S.
FORMER ZION MAYOR ADELINE GEO KARIS, WHO IS ALSO A STATE SENITOR SAYS THE SEAL HAS BEEN USED FOR YEARS WITHOUT STIFILING RELIGOUS DIVERSITY. RELIGION IS PART OF THE HISTORY OF

(ARTICAL CONTINUED, ADDITONAL TEXT NOT AVAIL AT THIS TYPING)

(SACRAMENTO BEE 1/12/93)
SUPREME COURT TURNS DEAL EAR TO VEXATIOUS LITIGANT O'LEARY

WASHINGTON - WHATS IN A NAME. IF YOUR JAMES O'LEARY THERES NOTHING SHORT OF A CONSTITUTIONAL BREACH IN THE USE OF THE NAME CALIFORNIA'S CAPITAL. O'LEARY, WHO BECAME RENOWNED FOR ITS CONSTANT DISPUTES WITH THE CITY OVER HIS RUNDOWN HOMES AND BOATS, HAD CLAIMED THE USE OF THE SACRAMENTO NAME ON CITY SEALS VIOLATED THE CONSTITUTIONAL SEPARATION OF CHURCH AND STATE. HE SAID THE CITY IS SHOWING ITS PREFERANCE FOR CHRISTIANITY BY USING THE NAME SACRAMENTO BECAUSE IT MEANS SACRAMENT A SIGN OR SYMBOL OF THE GRACE OF GOD.
HE TOOK HIS CASE ALL THE WAY TO THE U.S. SUPREME COURT. BUT THE COURT REFUSED TO HERE HIS APPEAL MONDAY.
O'LEARY 80 COULD NOT BE REACHED FOR COMMENT BUT THE BREIF HE HAD WRITTEN SAID SACRAMENTO AND WEST SACRAMENTOS USE OF THE NAME IN THIER SEALS IS EVIDENCE THEY ARE TRYING TO ESTABLISH RELIGION BY GOVERNEMT BY MSILEADING.
THE RAMBLING BREIF RECOUNTS HIS VARIOUS RUNOINS WITH CITY OFFICIALS FROM THE BURNING OF HIS WORLD WAR II MINE SWEEPER THE SEAMILL. TO THE BULLDOZING OF HIS RUN DOWN HOMES. ALNOG THE WAY OLEARY HAS FILED SO MANY SUITS AGAINST THE CITY THAT U.S. DISTRICT JUDGE LAWRENCE KARLTON DECLARED OLEARY A "VEXATIOUS LITIGANT" IN 1989 AND REQUIRED HIM TO PAY $1450 TO APPEAL . O'LEARY PAID THE MONEY AND APPEALED TO THE SUPREME COURT. BUT THE CITY ATTORNEY'S OFFICE SAID HE STARTED TO APPEAL TO SOON.
THE CITY ATTORNEY'S OFFICE SAID O'LEARY HAD TO TAKE HIS CASE US AGAIN WITH THE DISTRICT COURT - RATHER THAN APPEAL TO SUPREME COURT. EVEN THOUGH HE HAS LOST HIS BID IN SUPREME COURT. O'LEARY CAN STILL HAVE HIS DAY IN COURT. ITS JUST NOT IN THE HIGHEST COURT IN THE LAND.

(SACRAMENTO UNION ARTICAL, 1/12/93)
THE SEAL OF APPROVAL
CURMUDGEON LOSES FIGHT OVER CITY'S NAME

THE CAPITAL OF CALIFORNIA? THE ANSWER AMOUNTS TO FIGHTING WORDS FOR JAMES O'LEARY, WHO MONDAY FAILED TO GET THE SUPREME COURT TO DECLAIR SACRAMENTO'S NAME UNCONSTITUTIONAL WHEH USED ON THE CITY'S SEAL.
THE COURT WITHOUT COMMENT MONDAY REJECTED O'LEARY'S ARGUMENT THAT THE NAME UNLAWFULLY BETRAYESA "PREFERANCE FOR CHRISTAINITY" AND OTHER RELIGIONS THAT USE SACRAMENTS IN THE EXERCISE OF THEIR BEILIEFS. A FEDERAL TRAILA JUDGE AND THE 9TH U.S. CIRCUIT COURT OF APPEALS PREVIOUSLY HAD REJECTED O'LEARY'S CHALLANGE WHICH ALSO TARGETED THE CITY OF WEST SACRAMENTO. IN A RAMBLING, APPARENTLY SELF TYPED APPEAL 80 YEAR OLD RESIDENT OF BRODRICK AND FORMER SACRAMENTAN URGED THE JUSTICES TO SEE THINGS HIS WAY. HE SIGNED OFF BE STATING GOD BLESS ALL. (ARTICAL CONTINUES)

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SUPREME COURT OF UNITED STATES
OFFICE OF THE CLERK

DIOS LA IGLESIA DE LAITIES,
RE. JAMES O'LEARY
PLAINTIFF

VS.

COUNTY OF SACRAMENTO ET. AL.
DEFENDANT

_____/

I, THE UNDERSIGNED, HEREBY CERTIFY THAT THIS PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE UNITED STATES IS PRESENTED IN GOOD FAITH AND NOT FOR DELAY.
SO HELP ME GOD

Served defendant
10/20/94

SIGNED

James O'Leary

Supreme Court, U.S.
FILED
NOV 18 1994
OFFICE OF THE CLERK

No. 94-737

In The

Supreme Court of the United States

October Term, 1994

James O'Leary,

Petitioner,

v.

County of Sacramento,

Respondent.

Petition For Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

BRIEF FOR RESPONDENT

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QUESTIONS PRESENTED FOR REVIEW

1. Does the plaintiff-appellant show contact with the official county seal to establish standing in order to bring a challenge to the use of the county name "Sacramento" on the official county seal and to allege that the seal violates the Establishment Clause of the First Amendment because the English translation from the Spanish word "sacramento" means "sacrament?"

2. Did the plaintiff fail to properly serve the County of Sacramento by serving a Deputy County Clerk of the County Clerk's Office in the county courthouse as opposed to a qualified official for service of process of the County of Sacramento?

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CITATIONS OF OPINIONS AND JUDGMENTS OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT AND THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

1. United States Court of Appeals for the Ninth Circuit, No. 93-15767, D.C. No. CV-91-01246-EJG Eastern California (Sacramento), James O'Leary v. County of Sacramento, Order, denying plaintiff-appellant's petition for rehearing, order filed July 20, 1994, before Circuit Judges Schroeder, Canby, and Wiggins.

2. United States Court of Appeals for the Ninth Circuit, No. 93-91-01246-EJG, James O'Leary v. County of Sacramento, Memorandum, on remand for this court the plaintiff-appellant's appeal of the district court's dismissal of his action pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(5) for lack of standing is affirmed, Memorandum was filed March 1, 1994, and before Circuit Judges Schroeder, Canby, and Wiggins.

3. United States District Court for the Eastern District of California, Civ. No. S-91-1246 EJG/JFM, James O'Leary v. County of Sacramento, Order Dismissing Complaint, the amended complaint is dismissed without leave to amend because the complaint is again defective for lack of standing and for defective service of process, dated March 25, 1993 by Edward J. Garcia, Judge, United States District Court, filed on March 26, 1993.

4. United States District Court for the Eastern District of California, Civ. No. S-91-1246 EJG/JFM, James O'Leary v. County of Sacramento, Order, on remand from the Ninth Circuit Court of Appeals, plaintiff-appellant's

complaint is dismissed without prejudice based upon lack of standing and lack of service of process with leave to amend within 20 calendar days, Order dated January 28, 1993, by Edward J. Garcia, Judge, United States District Court, and filed January 29, 1993.

5. United States Court of Appeals for the Ninth Circuit, No. 92-15209, DC No. CV-91-01246-EJG, James O'Leary v. County of Sacramento, Order, plaintiff-appellant's petition for rehearing is denied, before Choy, Sneed, and Skopil, Circuit Judges.

6. United States Court of Appeals for the Ninth Circuit, No. 92-15209, CT/AG#: CV-91-01-246-EJG(JFM), James O'Leary v. County of Sacramento, Order reversing and remanding judgment of District Court, filed and entered October 5, 1992, and Memorandum, filed October 5, 1992, remanding the matter to the District Court for determination of the issues of standing and service of process before deciding the matter on the merits, before Choy, Sneed, and Skopil, Circuit Judges.

7. United States District Court for the Eastern District of California, Civ. No. S-91-1246 EJG/JFM, James O'Leary v. County of Sacramento, Order, dismissal of complaint with prejudice for failure to state a claim, dated January 14, 1992, by Edward J. Garcia, Judge, United States District Court, Order filed January 16, 1992.

STATEMENT OF JURISDICTION

Jurisdiction is pursuant to 28 U.S.C.A. Section 1254 subdivision (1), the United States Supreme Court may

review cases of the court of appeals by writ of certiorari granted upon the petition of any party to any civil case after rendition of judgment or decree.

Subject matter jurisdiction rests upon that of a Federal Question, i.e., whether or not the use of the county's name "Sacramento" on an official county seal violates the Establishment of Religion Clause of the First Amendment. U.S. Const., Amend. I; 28 U.S.C.A. Section 1331.

The petition for the writ of certiorari is timely as it is brought within 90 days from the denial of the petition for rehearing by the District Court. The District Court denial of rehearing was filed on July 20, 1994, and this petition for a writ of certiorari was filed, pursuant to the plaintiff-appellant's representations, on September 30, 1994. United States Supreme Court Rules of Court, Rule 13.

Of course, it is the contention of the Respondent-County that the court lacks jurisdiction to hear this matter for lack of service of process and because the plaintiff-appellant has failed to establish standing to bring this action.

CONSTITUTIONAL PROVISIONS AND STATUTES WHICH THE CASE INVOLVES

United States Constitution

Article III Section 2 Subdivision (1)

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made,

under their Authority; – to all Cases affecting Ambassadors, other public Ministers and Consuls; – to all Cases of admiralty and maritime Jurisdiction; – to Controversies to which the United States shall be a Party; – to Controversies between two or more States; – between a State and Citizens of another State; – between Citizens of different States; – between Citizens of the same State claiming Lands under the Grants of different States, and between a State, or the citizens thereof, and foreign States, Citizens or Subjects.

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

STATEMENT OF THE CASE

This petition for writ of certiorari focuses on one issue: Has plaintiff shown personal contact with the official county seal of the County of Sacramento which includes the name of the county "Sacramento" which plaintiff alleges has caused him to suffer an injury in fact since the English translation of the Spanish word "sacramento" means sacrament and thus plaintiff-appellant alleges that such name on the county seal is an establishment of religion in violation of his First Amendment rights?

1. On September 18, 1991, the plaintiff filed the complaint in this above-entitled action, in the United States District Court, Eastern District of California. The complaint alleged that plaintiff's First Amendment rights, in particular, the Establishment of Religion Clause, had been violated because the use by the County of Sacramento of its name "Sacramento" in its official county seal literally means the "sacrament" when translated to the English language from the Spanish language and that as such the County was fostering the establishment of the Roman Catholic religion and thus causing him great anguish.

2. On or about September 23, 1991, the plaintiff attempted service upon the County by certified mail upon an employee of the Superior Court of the State of California, County of Sacramento, to wit: a supervising legal filing process clerk. The clerk signed a receipt at the United States Post Office for the summons and complaint in the above-entitled action.

3. On October 15, 1991, the County filed a motion to dismiss the action based upon the Federal Rules of Civil Procedure, Nos. 12(b)(1), 12(b)(2), 12(b)(3), 12(b)(4), 12(b)(5), and 12(b)(6). The motion was based on the following grounds: that the complaint failed to state a claim; that the court lacked subject matter jurisdiction because there was no federal question; that the alleged federal question was frivolous and unsubstantial; that there was lack of jurisdiction over the County because of lack of proper personal service; and finally, that there was insufficient service of process. On December 6, 1991, plaintiff filed a written opposition with points and authorities to the County's motion.

4. On January 10, 1992, the County's motion to dismiss was heard in the District Court, Department 4 thereof, the Honorable Edward J. Garcia, Judge, presiding. The matter was submitted at that time without oral argument. On January 14, 1992, the Honorable Edward J. Garcia issued his written order and decision dismissing the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) with prejudice to refiling. On January 16, 1992, the judgment was entered on such order by the Clerk of the Court.

5. On January 21, 1992, plaintiff filed a notice of appeal. On October 30, 1992, the United States Court of Appeals for the Ninth Circuit reversed and remanded the case to the District Court. The Court of Appeal held that it was error for the District Court to have reached the merits and have dismissed the case before determining whether plaintiff had standing to sue and before determining whether the District Court had personal jurisdiction over the County. Accordingly, the Court of Appeal directed the District Court to determine plaintiff's standing and adequacy of service of process upon the County.

6. On January 29, 1993, the District Court granted the County's motion to dismiss with leave to amend pursuant to F.R.C.P. 12(b)(2) and 12(b)(5) based upon plaintiff's insufficient service of process and failure to establish standing.

7. On February 16, 1993, an amended complaint was filed by the plaintiff and on March 26, 1993, the District Court dismissed that complaint without leave to amend as the plaintiff had failed to establish standing, Rule

12(b)(1), and failed to properly serve process upon the County, Rule 12(b)(5).

8. On March 1, 1994, the United States Court of Appeals for the Ninth Circuit on appeal by the plaintiff, sustained the dismissal of plaintiff's complaint by the District Court without leave to amend based upon the plaintiff-appellant's failure to establish standing, Rule 12(b)(1) and 12(b)(5).

9. On July 20, 1994, the United States Court of Appeals for the Ninth Circuit, denied the plaintiff-appellant's petition for rehearing.

10. On September 30, 1994 the petitioner-appellant filed a Petition for Certiorari with the United States Supreme Court.

SUMMARY OF ARGUMENT

1. This case presents no issue appropriate for the court's exercise of its discretionary jurisdiction in order to review this case on a writ of certiorari. It does not involve an undecided issue of federal law and does not involve the decision of a United States Court of Appeals in conflict with the decision of another United States Court of Appeals. Rule 10, United States Supreme Court.

2. Petitioner alleges in his complaint that his First Amendment rights, in particular, the Establishment of Religion Clause, has been violated because the use by the County of Sacramento of its name "Sacramento" in its official county seal literally means the "sacrament" when

translated from the Spanish language to the English language and that as such the County is fostering the establishment of the Roman Catholic religion and thus causing him great anguish.

Plaintiff does not allege that he is directly affected by actual observation of the logo or any connection or contact with the logo. In fact, he resides in a different county, Yolo County, as opposed to the County of Sacramento. In order to establish standing at least minimal personal contact with government's practice is required. Allegations of indignation or offense without at least some personal contact is not sufficient to establish standing. To have standing plaintiff must establish that there is (1) an actual or threatened personal injury, (2) that is traceable to the County's unlawful conduct, and (3) that such personal injury is likely to be redressed by a favorable decision of the court. All three elements must be established. The petitioner fails to establish the second requirement listed above, i.e., causation for his alleged distress and anguish; and therefore, fails to establish a required element of standing in order to bring this action.

3. The United States Supreme Court lacks jurisdiction to hear this matter as proper service of process over the Respondent-County was never accomplished by the Petitioner.

ARGUMENT

I.

THE COURT OF APPEALS PROPERLY SUSTAINED THE DISMISSAL OF THE COMPLAINT BY THE DISTRICT COURT UPON PETITIONER'S FAILURE TO ESTABLISH THE CAUSATION NECESSARY FOR STANDING

Article III of the United States Constitution limits the "judicial power" of the United States to the resolution of "cases and controversies." A plaintiff must in his complaint allege an actual or threatened injury in order to bring a federal claim. Such a personal stake in litigation is called "standing." Without standing, the court lacks jurisdiction. *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 471; 102 S.Ct. 752, 757; 70 L.Ed.2d 700 (1982).

To have standing, plaintiff must establish that there is: (1) an actual or threatened personal injury, (2) that is traceable to the County's unlawful conduct, and (3) that such personal injury is likely to be redressed by a favorable decision of the court. All three elements must be established. *Allan v. Wright*, 468 U.S. 737, 751, 104 S.Ct. 3315, 3324, 82 L.Ed.2d 556 (1984); *Lujan v. Defenders of the Wildlife*, 112 S.Ct. 2130, 2136 (1992); *Snake River Farmers' Assoc. v. Department of Labor*, 9 F.3d 792, 795 (9th Cir. 1993). The party seeking to invoke federal jurisdiction bears the burden of alleging facts sufficient to establish standing. *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 231 (1990).

The alleged injury must be an injury in fact and plaintiff must be directly affected by the laws or practices

to which his complaints are directed. Although the injury may be noneconomic, plaintiff must be personally affected. *Valley Forge*, supra, 454 U.S. at p. 486 n.22, 102 S.Ct. at p. 766, n.22; *City of Los Angeles v. Lyons* 461 U.S. 95, 101-02 (1983); *Lujan*, supra, 112 S.Ct. 2130, 2136.

In his complaint (both the original and amended complaints), the plaintiff alleges that he has suffered injuries due to the County's use of the name "Sacramento," on the official County seal; in particular, that his First Amendment rights under the Establishment of Religion Clause of the United States Constitution have been violated because the name "Sacramento" means "sacrament" in Spanish and thus the use of such name on the County seal fosters the Roman Catholic religion. Having made this accusation, the plaintiff fails to show how this use of the County seal personally confronts him. The causation factor is missing in his allegations because he never alleges facts indicating how these injuries occurred. The petitioner never alleges that he ever observed the seal or ever came in contact with the seal. In fact, the complaint establishes that he lives in another county, Yolo County, as opposed to the County of Sacramento. He alleges that the use of the name "Sacramento" on the County seal has caused him injuries of "anger, shame, fright, humiliation, mental anguish, emotional distress, physical distress," and that he has been forced to "go underground" with his religion. But, the causation factor, i.e., contact with that seal that brought upon those "injuries," is never mentioned. At least minimal personal contact with government's practice is required to establish standing. *Foremaster v. City of St. George* 882 F.2d 1485, 1491 (10th Cir. 1989); *Murray v. City of Austin*, 947 F.2d 146, 151 (5th

Cir. 1991). Allegations of indignation or offense without at least some personal contact is not sufficient to establish standing. *Harris v. City of Zion*, 927 F.2d 1401, 1406 (7th Cir. 1991).

Absent allegations in the complaint that the injuries alleged are traceable to the County's unlawful conduct, i.e., some personal contact, the complaint fails for lack of standing. Accordingly, the Court of Appeals did not err in sustaining the District Court's dismissal of the action for lack of standing.

II.

THE DISTRICT COURT PROPERLY DISMISSED THE COMPLAINT FOR LACK OF PERSONAL JURISDICTION DUE TO INSUFFICIENT SERVICE OF PROCESS PURSUANT TO RULES 12(b)(2) and 12(b)(5)

Pursuant to the declaration of Cheri Fairchild filed with the County's motion to dismiss, the original complaint and summons was served by the plaintiff upon a court filing clerk of the State of California Superior Court. This individual was served by certified mail and she receipted for the documents when she picked up the documents at the U.S. Post Office. The summons was addressed to the "County of Sacramento, c/o County Clerk, 720 Ninth Street, Sacramento, California." Federal procedure provides for service upon a local governmental entity according to the procedure used by the state for service of process. F.R.C.P. 4(d)(6). The amended complaint was never properly served upon any appropriate county official authorized to accept service.

Service by certified mail upon the "County Clerk" or a Superior Court filing clerk is not authorized service in the State of California. California requires the delivery of a copy of the summons and complaint " . . . to the clerk, secretary, president, presiding officer, or other head of the governing body." California Code of Civil Procedure Section 416.50.

The amended complaint was never properly served upon the County as a copy thereof was mailed to the Deputy County Counsel challenging this lawsuit and the service thereof.

If the defendant, regardless of notice, is a municipal corporation and was not served by a method provided by F.R.C.P. 4, plaintiff's complaint is subject to dismissal. *Cambridge Mutual Fire Insurance Co. v. City of Claston,* Georgia, D.C. Ga. 1982 96 F.R.D. 175.

Having failed to properly serve a local governmental entity, the District Court properly dismissed the complaints for lack of personal jurisdiction of the defendant due to insufficient service of process pursuant to F.R.C.P. 12(b)(2) and 12(b)(5).

III.

THIS CASE IS INAPPROPRIATE FOR EXERCISE OF THE SUPREME COURT'S DISCRETIONARY JURISDICTION IN ORDER TO REVIEW THE CASE ON A WRIT OF CERTIORARI BECAUSE THERE ARE NO CONFLICTING COURT OF APPEALS' DECISIONS ON THIS SUBJECT OF STANDING

This case presents no issue appropriate for the court's exercise of its discretionary jurisdiction in order to

review this case on a writ of certiorari. It does not involve an undecided issue of federal law and does not involve the decision of a United States Court of Appeals in conflict with the decision of another United States Court of Appeals. Rule 10, United States Supreme Court Rules.

The issue of standing has been widely covered by numerous federal cases, both United States Court of Appeals and United States Supreme Court cases. Such cases have also been decided in the context of the Establishment of Religion Clause of the First Amendment. Therefore, this case presents no new issue to be decided by this Court. Such cases have been cited in the body of this brief. There also appear to be no decisions which conflict one with another on this subject. Clearly, the decision of the Court of Appeals for the Ninth Circuit is in keeping with the principles of the cases cited in this brief on the issue of standing.

Therefore, pursuant to the criteria listed in Rule 10 of the United States Supreme Court Rules, this case ought not to be reviewed by writ of certiorari.

CONCLUSION

The above-mentioned authorities establish that this honorable court ought not to exercise its discretion and review this case by writ of certiorari. It is well established in the law that a plaintiff must establish that the defendant's unlawful conduct is the cause for his alleged injuries. Failing to establish such causation, the defendant fails to establish his standing. Numerous cases have been cited for this proposition in this brief. In this case, the

petitioner alleges physical and mental distress and that he has had to take his religion "underground", but the plaintiff never alleges that the official county seal with the name of the county "Sacramento" inscribed thereon is in fact the cause of such anguish since he never indicates that he has had any contact with that seal.

Furthermore, it is apparent that the petitioner never properly secured service over the County as he never served a County official capable of accepting such service under the law.

Therefore, petitioner has failed to establish a cause of action in this matter by failing to establish his standing. Accordingly, it is respectfully requested that this honorable Court not exercise its discretionary jurisdiction and that this petition for writ of certiorari be denied.

Respectfully submitted,

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